



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,336	12/12/2003	Abhay Sathe	10030721-1	7472

7590 12/12/2007
AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, CO 80537-0599

EXAMINER

ROMANO, JOHN J

ART UNIT	PAPER NUMBER
----------	--------------

2192

MAIL DATE	DELIVERY MODE
-----------	---------------

12/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/733,336

Applicant(s)

SATHE, ABHAY

Examiner

John J. Romano

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Applicant's amendment and response received September 5th, 2007 responding to the June 6th, 2007, Office action provided in the rejections of claims 1-20, wherein claims 13 and 20 are amended and claims 21-25 are added. Accordingly, claims 1-25 remain pending in the application and which have been fully considered by the examiner.

Applicant's arguments and amendments with respect to §101 rejection of claim 20 are persuasive. Accordingly, the §101 rejection of claim 20 is withdrawn.

Applicant's arguments, see with respect to the prior art rejection of claim 19 (Remarks (9/05/2007) at p. 7) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made over *Hare* in view of *Binder, Schwaller and Hartman*.

Prior Art's Arguments – Rejections

2. Applicant's arguments filed September 5th, 2007, in particular on pages 9-15, have been fully considered but they are not persuasive. For example,

(A) In regard to applicant's argument with respect to the 35 U.S.C. §101 rejections of claims **1-19** being directed to an "apparatus" and therefore statutory (remarks (9/05/2007) p. 9,) the examiner respectfully disagrees. The term "apparatus" is defined only to include various software modules (see originally filed specification, pp. 1-4.) It is noted that the term "apparatus" is not necessarily interpreted as a computer, which executes instructions stored on a computer readable medium. Additionally, the

claimed "apparatus" is not interpreted to require a functional logical relationship between the claimed software modules. Therefore, the claimed "apparatus" is interpreted as comprising nonfunctional descriptive material, lacking the necessary hardware to permit the functionality to be realized.

As such, the system is directed to non-statutory subject matter and is therefore, rejected. To overcome this type of rejection the claims need to be amended to comprise statutory subject matter (i.e., apparatus comprising a computer readable medium encoded with a data structure defining structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized). See MPEP 2106.01 (I). Appropriate correction is required.

(B) In regard to Applicants argument with respect to claims 1-2, wherein Applicant argues that *Hare* does not teach or suggest "flows respectively corresponding to test locations" (Remarks (9/05/2007) at p. 10,) the examiner respectfully disagrees. It is noted that the cited passage of the prior art (Figure 2 & Column 2, lines 27-55,) teach setup and executing test case MIBs 56 in an Openview distributed environment providing SNMP controls. Furthermore, *Hare* teaches (See *Hare*, Column 3, lines 29-38) the test driver 44 coupling to the system to be monitored and tested (test location) including an SNMP proxy agent operating under the control of HP open view equipment 42. Also, see Column 5, Table 1, wherein *Hare* expressly discloses identifying each agent and corresponding port information, identification (location) and test case.

Therefore, employing a test agent proxy at a location over a network in order to test it, using MIBs test instances certainly teaches a *test corresponding to a location*.

Finally, the MIB routines executing a single test case, wherein each test case set is a sequential list of test cases (flows), which respectively corresponding to test locations as claimed.

(C) In regard to applicant's arguments, with respect to claim 3, that *Binder* is silent to any of such models being "for a multi-location test of a network" (Remarks (9/05/2007) at p. 11,) the examiner respectfully disagrees. It should be note that the cited portion of *Hare*, addressed hereinabove in section (B), teaches a multi-location test of a network. *Hare* teaches an agent for each location of the ACD system (see *Hare*, Figure 2 & Column 3, line 66 – Column 4, line 3), wherein responses are obtained from the integration unit 36, agent terminal 30 and the agent telephone unit 28 (multi-location). It is noted that the plain language of the claim, merely requires a multi-location test of a network. Thus, *Hare* clearly teaches a multi-location network test.

(D) In regard to applicant's arguments, with respect to claim 18, that "*Binder* is silent to graphical models of test software" (Remarks (9/05/2007) at p. 12,) the examiner respectfully disagrees. *Binder* clearly teaches a test control server (Figure 1, item 5) comprising a Application Model Builder (item 9), wherein "The Test Repository Manager 9 may provide utility functions necessary to manage a large collection of test models, simulation runs, and test runs" (*Binder*, page 4, paragraph [0022] – emphasis added.) Thus, contrary to applicants' arguments, *Binder* indeed teaches modeling of test software as claimed.

(E) In regard to claim 19, the examiner would like to thank the applicant for pointing out the typo of the previous rejections. As noted by applicant, the cited reference was indeed a typo, as confirmed in the examiner interview (Remarks (9/05/2007) at p. 7.) However, as also noted in the previous rejection of claim 19 (office action (6/06/2007) at p. 10,) the rejection was based on the rejections of claim 1, 6, 11 and 12. As the corresponding claims address the limitations of claim 19, and were cited properly, the examiner maintains the rejection with respect to the typo.

In regard to applicant's arguments, with respect to claim 19, that "*Binder* is silent to graphical models of test software" (Remarks (9/05/2007) at p. 13,) the examiner respectfully disagrees as addressed above in section (D).

In regard to applicant's arguments, with respect to claim 19, that *Schwaller* is silent to the transaction model being any form of a program unit (Remarks (9/05/2007) at p. 14, first paragraph) the examiner respectfully disagrees. *Schwaller* expressly discloses (Figure 3 & Column 14, lines 39 – 54:)

"The various agents illustrated in Fig. 3 may generally be referred to as the console engine of a network performance system according to the present invention. As described with respect to Figure 3, however, the console engine executing on console node 20 is preferably implemented as a variety of code threads independently executing and performing different functions through coordinated usage of object database 50. Similarly, an endpoint engine is provided and executed on each of the devices supporting endpoint nodes 14, 15, 16, 17, 18 to implement the endpoint node functions according to the present invention.

Endpoint engines executing on endpoint nodes 14, 15, 16, 17, 18 respectively receive test schedules and passive network test selection in memory available to endpoint nodes 14, 15, 16, 17, 18.” (emphasis added.)

Thus, the transaction model is clearly a program unit executed by the endpoint engine in a network test.

Next applicant argues that *Schwaller* fails to teach coordination module that “communicate test generated data with the different flows” (Remarks (9/05/2007) at p. 14,) wherein the examiner respectfully disagrees. In the same paragraph as reproduced above, *Schwaller* continues to expressly disclose:

“The endpoint engine on endpoint nodes 14, 15, 16, 17, 18 may further be responsible for reporting endpoint configuration information responsive to requests from control node 20 and for performing pre-setup and setup operations between respective endpoint nodes 14, 15, 16, 17, 18 (or otherwise incorporating related information in a pair configuration information flow) defining an endpoint node pair for a particular connection.” (Column 14, line 63 – Column 15, line 3 – emphasis added.)

Contrary to applicants’ argument, *Schwaller* clearly discloses the communication of data between a coordinated endpoint pair for a network test. Therefore, *Schwaller* indeed teaches coordination modules, which “communicate test generated data with the different flows”.

Finally, with respect to claim 19, applicant argues that *Hare*’s probe points 46 do not collect data (Remarks (9/05/2007) at p. 14,) wherein the examiner respectfully disagrees. It is noted by the examiner, that *Hare* discloses (E.g., see Figure 1 (11) &

Column 1, line 66 – column 2, line 7), wherein a traffic driver/checker (44) /central test controller is programmed with a Management Information Base (MIB) that controls the running of the flows, employing probe points connected to various subsystems.

Additionally, Hare teaches openview employing probes to determine component or system status, which inherently requires collecting information. Furthermore, one of ordinary skill in the art, would have known how to use, HP openview SNMP to collect information with a probe without undue experimentation. Thus, the rejection is maintained with respect to the instant arguments.

(F) Applicants remaining arguments are the same or at least similar, to the issues addressed above in sections (A) – (E). Accordingly, the examiner refers applicant to the corresponding section above.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims **1-19** and **21-25** are rejected; the claimed invention is directed to non-statutory subject matter. In regard to independent claims **1, 3, 17, 18** and **19**, are directed to software per se, which is not a product of manufacture. Therefore, the claims fail to fall into a statutory category.

Additionally, independent claims **1, 3, 17, 18** and **19** do not recite functional descriptive material comprising a physical or logical relationship between the elements recited. Instead the limitations appear directed toward intended use. See originally filed

specification, pages 1-4, wherein the term "apparatus" is defined to include various software modules (emphasis added). Therefore, the claimed "apparatus" is interpreted as nonfunctional descriptive material, lacking the necessary hardware to permit the functionality to be realized. As such, the system is directed to non-statutory subject matter and is therefore, rejected. To overcome this type of rejection the claims need to be amended to comprise statutory subject matter (i.e., computer readable medium encoded with a data structure defining structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized). See MPEP 2106.01 (I).

Appropriate correction is required. Appropriate correction is required.

In regard to dependent claims **2, 4-16** and **21-25**, they are rejected for not further limiting to cure the deficiencies addressed above in the rejected base claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **1-5**, **18** and **21-25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hare, US 6,292,909 (art made of record & hereinafter **Hare**) in view of Binder et al., US 2003/0156549 (art made of record & hereinafter **Binder**).

In regard to claim **1**, **Hare** discloses:

- *"An apparatus comprising: a plurality ...of software modules ...respectively, of a network..."* (E.g., see Figure 2 (50)), wherein the MIB's are software routines (modules) of a network.
- *"...including flows respectively corresponding to test locations, a respective flow for a corresponding test location being a flow of software modules from the library..."* (E.g., see Figure 2 & Column 4, lines 27-55), wherein the MIB routines execute a single test set, comprising a sequential list of test cases associated with a particular location.

But **Hare** does not expressly disclose *"...and a graphical end user interface (GUI) via which an end user constructs a graphical model for a test of the network..."*.

However, **Binder** discloses:

- *"...and a graphical end user interface (GUI) via which an end user constructs a graphical model for a test of the network..."* (E.g., see Figure 1 (8) & paragraph [0021]), wherein the Application Model Builder 8 models a test of a network via a GUI.

Hare and **Binder** are analogous art because they are both concerned with the same field of endeavor, namely, testing a distributed network. Therefore, at the time the

invention was made, it would have been obvious to a person of ordinary skill in the art to combine **Binder's** graphical modeling of network tests with **Hare's** test editor. The suggestion to combine was evident by **Binder's** disclosure of (E.g., see Figure 1 (8) + (9) & paragraph [0021]), wherein the Test Repository Manager 9 manages a large collection of test models and test runs to provide the modeling capabilities of the various disclosed network tests.

But the combination of **Binder** and **Hare** do not expressly disclose "*a plurality of libraries*" or "*maintained at a plurality of test locations*". However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to maintain a library of software modules at a plurality of test locations. The motivation to do so would have been to distribute information, as is old and well known in the art of network management. Therefore, one of ordinary skill in the art, would have been able to determine to provide multiple copies of the software libraries to the respective locations where they are used.

In regard to claim **2**, the rejections of base claim **1** are incorporated.

Furthermore, **Hare** discloses:

- "...wherein the GUI is run at a location remote from at least one test location, so that the end user constructs the graphical model and runs the test from the remote location." (E.g., see Figure 1 & Column 2, line 40 – Column 3, line 28), wherein remote testing is disclosed in conjunction with HP openview equipment, identified by reference 42, to provide SNMP control for carrying out tests.

In regard to claim 3, see claim 1.

In regard to claim 4, see claim 2.

In regard to claim 5, the rejections of base claim 3 are incorporated.

Furthermore, **Hare** discloses:

- "...each flow sequentially runs the software modules contained therein." (E.g., see Figure 2 (58)), MIBs, wherein each test case set is a sequential list of test cases.

In regard to claim 18, see claim 1. Furthermore, **Hare** discloses:

- "...in which a subtest of at least one software module is constructed for each test location." (E.g., see Figure 8 & Column 14, lines 13-63), wherein different test cases are built depending on the system components used.

In regard to claim 21, the rejections of base claim 1 are incorporated.

Furthermore, **Hare** discloses:

- "...a plurality of agents at the plurality of test locations, wherein the software modules are operable to access a data store of the agents." (E.g., see Figure 1 & column 5, lines 1-38), wherein multiple agents at a plurality of ports (locations) are disclosed.

In regard to claim 22, the rejections of base claim 1 are incorporated. But, **Hare** does not expressly disclose "...the software modules performing the test of the network report a 'test failed' at the outset, and change the result to success only if all the tests applied by the module succeed.". However, at the time the invention was made, it

would have been obvious to a person of ordinary skill in the art to substitute a functionally equivalent sequence of a test result. The motivation to do so was provided by **Hare's** teaching of testing for failure and returning a success upon completion of setup and/or test sequences (Column 4, lines 27-55.) Therefore, the teachings of **Hare** at least would have suggested to one of ordinary skill in the art, the instant claimed limitations.

In regard to claim **23**, the rejections of base claim **1** are incorporated. Furthermore, **Hare** discloses HP open view, network management, which comprises hierarchical models of software. But, **Hare** and **Binder** do not expressly disclose "...dotted arrows show co-ordination points between the flows". However, **Binder** discloses a test application model builder, employing notation for state machines, sequence diagrams, decision tables, and data structures (**Binder**, paragraph [0042].) However, one of ordinary skill in the art, at the time of the invention, would have known to model with a unique identifier (i.e., dotted arrows, dotted lines, dotted bubbles, etc. – See **Binder's** dotted lines of Figure 1) or an equivalent indicator to show a relationship. Therefore, one of ordinary skill in the art, would have had sufficient motivation/suggestion to display the sequence relationships between the test modules as claimed with a respective unique identifier such as a dotted arrow.

In regard to claim **24**, the rejections of base claim **1** are incorporated. But, **Hare** and **Binder** do not expressly disclose "...a send email module and a receive email module." However, one of ordinary skill in the software modeling art, would have known to model each part of the system in order to generate functional code from the software

model. The suggestion to do so was provided by **Binder's** teaching of a test application model builder using notation for state machines, sequence diagrams, decision tables, and data structures (**Binder**, paragraph [0042]).

In regard to claim **25**, the rejections of base claim **24** are incorporated. But, **Hare** and **Binder** do not expressly disclose "...*the receive email model uses unique identifying information about an email to select the email from a plurality of received emails.*" However one of ordinary skill in the art, would have known to model any portion of the software application test being modeled, as is old and well known in the art of software modeling in order to illustrate high level to low level details, including all programs, classes, methods and related attributes. Similarly **Hare's** disclosure of retrieving a particular message electronically from a group of messages (See **Hare**, Column 8, lines 53-59), necessarily requires unique identifying information about the particular electronic message; and would have suggested to one of ordinary skill in the art, to obviously do the same to select an electronic mail message.

5. Claims **6-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hare** in view of **Binder** and further in view of Schwaller et al., US 6,625,648 (art made of record & hereinafter **Schwaller**).

In regard to claim **6**, the rejections of base claim **3** are incorporated.

Furthermore, **Hare** discloses:

- "...*test modules that perform predefined test operations....*" (E.g., see Figure 4 & Column 7, lines 19-41).

But **Hare** and **Binder** do not expressly disclose “...and coordination modules to coordinate inter-operation of test modules in different flows.”. However, **Schwaller** discloses:

- “...and coordination modules to coordinate inter-operation of test modules in different flows.” (E.g., see Figure 4A & Column 15, lines 15-32), wherein a transaction module to coordinate inter-operation of test modules is taught.

Hare, **Binder** and **Schwaller** are analogous art because they are both concerned with the same field of endeavor, namely, testing a distributed network. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine **Schwaller's** coordination modules with **Hare and Binder's** test editor. The suggestion to combine was evident by **Schwaller's** disclosure of endpoint nodes testing (E.g., see Column 3, lines 33-58), to achieve network performance test results from a pair of endpoint nodes.

In regard to claim **7**, the rejections of base claim **6** are incorporated.

Furthermore, **Schwaller** discloses:

- “...coordination modules are employed in a pair, comprising: a first member of the pair employed in a first flow to send a coordination message to a second flow; and a second member of the pair employed in the second flow to receive the coordination message from the first member.” (E.g., see Figure 4A & Column 4, lines 18-26), wherein a

send-receive transaction model are tested. The transaction model is interpreted as the coordination module.

In regard to claim **8**, the rejections of base claim **7** are incorporated.

Furthermore, **Schwaller** discloses:

- "...*the coordination message also contains test generated data.*" (E.g., see Figures 4A-4C), wherein test generated data (send and receive data generated from the test model) is comprised in the coordination message.

In regard to claim **9**, the rejections of base claim **8** are incorporated.

Furthermore, **Schwaller** discloses:

- "...*the test generated data is formatted in a predefined format.*" (E.g., see Figure 9 & Column 19, lines 29-51).

In regard to claim **10**, the rejections of base claim **8** are incorporated.

Furthermore, **Schwaller** discloses:

- "...*each test location has an associated information holding environment, in which the test generated data is stored.*" (E.g., see Figure 6), wherein test results are reported and thus stored in order to be effective.

6. Claims **11-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hare** in view of **Binder** and further in view of Hartman et al., "UML-Based Integration Testing" (art made of record & hereinafter **Hartman**).

In regard to claim **11**, the rejections of base claim **3** are incorporated.

Furthermore, **Hartman** discloses:

- *“...a conversion unit to generate the flows from the graphical model.”*
(E.g., see Figure 6 & Section “4.2 Test Generation”), wherein the
Figure 6 presents the test case that is derived from the global
behavioral model.

Hare, **Binder** and **Hartman** are analogous art because they are both concerned with the same field of endeavor, namely, testing a network. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine **Hartman’s** test generation methods with **Hare and Binder’s** test editor. The suggestion to combine was evident by **Harman’s** disclosure of automating the execution step to automatically generate their tests (See Hartman, Section “7. Related Work”).

In regard to claim **12**, the rejections of base claim **11** are incorporated.

Furthermore, **Hartman** discloses:

- *“...a converter to convert the graphical model into text; and a parser to generate the flows from the text.”* (E.g., see Figure 6 & Section “5.2 TECS”, “Test Case Compiler”), wherein the compiler parses and converts the test case definition into C++.

In regard to claim **13**, the rejections of base claim **12** are incorporated.

Furthermore, **Hartman** discloses:

- "...the parser interacts with the library to generate the flows." (E.g., see Figure 6 & Section "5.2 TECS", "Test Harness Library"), wherein the C++ framework that provides the basic infrastructure for creating the executable test drivers is stored.

In regard to claim **14**, the rejections of base claim **12** are incorporated. But the combined art of **Hare**, **Binder** and **Hartman** do not expressly disclose "...a language used by the converter to convert the graphical model into text is XML." (E.g., see Figure 6 & Column 12, lines 16-29). However, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to use XML to convert a rational rose model to text as XML is old and well known in the art of programming to provide custom data communication services.

In regard to claim **15**, the rejections of base claim **3** are incorporated.

Furthermore, **Hare** discloses:

- "...the library is centrally located." (E.g., see Figure 1), wherein a centrally located HP Operations Center 40 and storage Mainframe 32 is disclosed.

In regard to claim **16**, see claim **1**.

7. Claims **17** and **19-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hare** in view of **Binder** and further in view of **Schwaller** in view of **Hartman**.

In regard to claim **17**, see claims **1** and **6**.

In regard to claim **19**, see claims **1**, **6**, **11** and **12**. Furthermore, **Hare** discloses:

- *"...at least one agent to run the flows; at least one probe deployed at each test location to collect data from at least one attribute of the network and communicate the data with the at least one agent; and a central controller to control running of the flows and collect the data from the at least one agent."* (E.g., see Figure 1 (11) & Column 1, line 66 – column 2, line 7), wherein a traffic driver/checker (44) /central test controller is programmed with a Management Information Base (MIB) that controls the running of the flows, employing probe points connected to the various subsystems to collect data.

Hare, Binder, Schwaller and Hartman are analogous art because they are both concerned with the same field of endeavor, namely, testing a distributed network. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the network test systems of **Hare, Binder, Schwaller and Hartman**. The suggestion to combine was evident by **Hare's** teaching of integrating convention test systems to test the network and efficiently report malfunctions (Column 1, lines 62-65).

In regard to claim **20**, this is a computer readable medium version of the claimed apparatus discussed above, in claim **19**, wherein all claimed limitations have also been addressed and/or cited as set forth above. For example, see **Hare**, computer readable medium (Figure 1), wherein instructions to implement the process may be stored.

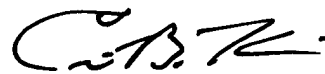
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Romano whose telephone number is (571) 272-3872. The examiner can normally be reached on 8-5:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JJR


ERIC B. KISS
PRIMARY EXAMINER